

I certify that the attached is a true and correct copy of the document which was filed of record in the Chief Clerk's Office and referred to the committee on:

Land & Resource Management

Cynthia Gerhardt

Chief Clerk of the House

FILED MAR 09 1995

H B. No. 2758

By SPHunder

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area:

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than ~~[that]~~ are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and attorney's fees in

1 bringing the action.

2 SECTION 2. The importance of this legislation and the
3 crowded condition of the calendars in both houses create an
4 emergency and an imperative public necessity that the
5 constitutional rule requiring bills to be read on three several
6 days in each house be suspended, and this rule is hereby suspended,
7 and that this Act take effect and be in force from and after its
8 passage, and it is so enacted.

COAUTHOR AUTHORIZATION-74TH LEGISLATURE

(please request your coauthors to sign this form
in lieu of the front or the back of the original bill)

For chief clerk use only

Bill or Resolution Number: HB 2758

Robert Saunders
signature of primary author

Robert Saunders
printed name of primary author

3/09/95
Date

PERMISSION TO SIGN HB 2758 HAS BEEN GIVEN TO (check only one of the following):
(bill or resolution #)

☒ ALL REPRESENTATIVES

☐ THE FOLLOWING REPRESENTATIVE(S): _____

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

A2120 Alexander	Date	A2115 Allen	Date	A2125 Alonzo	Date
A2105 Alvarado	Date	A2135 Averitt	Date	A2160 Bailey	Date
A2200 Berlanga	Date	A2240 Black	Date	A2270 Bomer	Date
A2275 Bosse	Date	A2265 Brady	Date	A2260 Brimer	Date
A2405 Carona	Date	A2400 Carter	Date	A2480 Chisum	Date
A2530 Clemons	Date	A2435 Coleman	Date	A2575 Combs	Date
A2580 Conley	Date	A2570 Cook	Date	A2595 Corte	Date
A2600 Counts	Date	A2605 Crabb	Date	A2610 Craddick	Date
A2645 Cuellar, Henry	Date	A2646 Cuellar, Renato	Date	A2635 Culberson	Date
A2670 Danburg	Date	A2675 Davila	Date	A2625 Davis	Date
A2630 De La Garza	Date	A2685 Dear	Date	A2680 Delisi	Date
A3385 Denny	Date	A2705 Driver	Date	A2665 Dukes	Date
A2655 Duncan	Date	A2650 Dutton	Date	A2770 Edwards	Date
A2760 Ehrhardt	Date	A2775 Eiland	Date	A2785 Elkins	Date
A2810 Farrar	Date	A2830 Finnell	Date	A2920 Gallego	Date
A2935 Giddings	Date	A2880 Glaze	Date	A2985 Goodman	Date
A2990 Goolsby	Date	A3005 Gray	Date	A3010 Greenberg	Date
A3020 Grusendorf	Date	A3030 Gutierrez	Date	A3035 Haggerty	Date
A2695 Hamric	Date	A3120 Harris	Date	A3170 Hartnett	Date
A3345 Hawley	Date	A3180 Heflin	Date	A3230 Hernandez	Date
A3240 Hightower	Date	A3310 Hilbert	Date	A3250 Hilderbran	Date

For chief clerk use only

Bill or Resolution Number:

HB 2758

A3275 Hill	Date	A3285 Hirschi	Date	A3305 Hochberg	Date
A3295 Holzheuser	Date	A3300 Horn	Date	A3315 Howard	Date
A3350 Hudson	Date	A3355 Hunter, Bob	Date	A3365 Hunter, Todd	Date
A3380 Jackson	Date	A3415 Janek	Date	A3395 Johnson	Date
A3405 Jones, Delwin	Date	A3400 Jones, Jesse	Date	A3440 Junell	Date
A3460 Kamel	Date	A3465 King	Date	A3485 Krusee	Date
A3490 Kubiak	Date	A3450 Kuempel	Date	A3510 Laney	Date
A3605 Lewis, Glenn	Date	A3600 Lewis, Ron		A3615 Longoria	Date
A3620 Luna	Date	A3715 Madden	Date	A3750 Marchant	Date
A2700 Maxey	Date	A3665 McCall	Date	A3670 McCoulskey	Date
A3660 McDonald	Date	A3850 Moffat	Date	A3860 Moreno	Date
A3865 Mowery	Date	A3855 Munoz	Date	A3885 Naishtat	Date
A3895 Nixon	Date	A3875 Oakley	Date	A3990 Ogden	Date
A3880 Oliveira	Date	A4020 Park	Date	A4070 Patterson	Date
A4180 Pickett	Date	A4185 Pitts	Date	A4110 Place	Date
A4190 Price	Date	A4200 Puente	Date	A4230 Rabuck	Date
A4210 Ramsay	Date	A4240 Rangel	Date	A4235 Raymond	Date
A4236 Reyna	Date	A4260 Rhodes	Date	A4315 Rodriguez	Date
A4325 Romo	Date	A4305 Rusling	Date	A4370 Sadler	Date
A4380 Saunders	Date	A4425 Seidlits	Date	A4460 Serna	Date
A4435 Shields	Date	A4445 Siebert	Date	A4530 Smithee	Date
A4550 Solis	Date	A4505 Solomons	Date	A4510 Stiles	Date
A4570 Swinford	Date	A4585 Talton	Date	A4605 Telford	Date
A4630 Thompson	Date	A4635 Tillery	Date	A4640 Torres	Date
A2730 Turner, Bob	Date	A4685 Turner, Sylvester	Date	A4690 Uher	Date
A4720 Van de Putte	Date	A4990 Walker	Date	A4995 West	Date
A5010 Williamson	Date	A4970 Willis	Date	A5000 Wilson	Date
A5015 Wohlgenuth	Date	A4980 Wolens	Date	A5005 Woolley	Date
A5025 Yarbrough	Date	A5030 Yost	Date	A5040 Zbraneck	Date

JOINT AUTHOR AUTHORIZATION

As primary author of HB 2758 I hereby authorize the following joint author(s):
(bill or resolution #)

Jerry Yost
printed name of joint author #1

Jerry Yost
signature of joint author #1

Susan Combs
printed name of joint author #2

signature of joint author #2

printed name of joint author #3

signature of joint author #3

printed name of joint author #4

signature of joint author #4

Robert S. Anderson
signature of primary author

3/30/95
date

ORIGINAL FORM--Place in book

SEND COPIES TO:
Debbie Irvine (Legislative Council)
Legislative Reference Library
House Journal

HOUSE COMMITTEE REPORT

1st Printing

By Saunders

H.B. No. 2758

Substitute the following for H.B. No. 2758:

By Saunders

C.S.H.B. No. 2758

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area:

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than ~~[that]~~ are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. The change in law made by this Act applies only
5 to annexations that are initiated on or after the effective date of
6 this Act. The former law is continued in effect for annexations
7 that were initiated prior to the effective date of this Act.

8 SECTION 3. The importance of this legislation and the
9 crowded condition of the calendars in both houses create an
10 emergency and an imperative public necessity that the
11 constitutional rule requiring bills to be read on three several
12 days in each house be suspended, and this rule is hereby suspended,
13 and that this Act take effect and be in force from and after its
14 passage, and it is so enacted.

COMMITTEE REPORT

The Honorable Pete Laney
Speaker of the House of Representatives

APRIL 11, 1995
(date)

Sir:
We, your COMMITTEE ON LAND AND RESOURCE MANAGEMENT
to whom was referred H.B. 2758 have had the same under consideration and beg to report
back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (x) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (x) yes () no A fiscal note was requested.
- () yes (x) no A criminal justice policy impact statement was requested.
- () yes (x) no An equalized educational funding impact statement was requested.
- () yes (x) no An actuarial analysis was requested.
- () yes (x) no A water development policy impact statement was requested.
- () The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____
Joint Sponsors _____ / _____ / _____ / _____
Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Saunders, Ch.	X			
Mowery, V.C.	X			
Alexander				X
Combs	X			
Hamric	X			
Hilderbran				X
Howard	X			
Krusee	X			
Turner, B.	X			

Total 7 aye
 0 nay
 0 present, not voting
 2 absent

Robert Saunders
CHAIRMAN

BILL ANALYSIS

Land and Resource Management Committee
C.S.H.B. 2758
By: Saunders
April 13, 1995
Committee Report (Substituted)

BACKGROUND

Chapter 43, Local Government Code, sets out several requirements that a municipality must follow to annex territory. Specifically, Section 43.056, Local Government Code, requires a municipality to prepare a service plan that provides for the extension of full municipal services to an area to be annexed. For most municipalities in Texas, police, fire, and emergency services, as well as garbage collection, must be provided within 60 days after the effective date of the annexation. A municipality is then required to provide all other municipal services to an annexed area within 4 1/2 years after the effective date of the annexation. A service plan is valid for 10 years. If a city does not comply with the requirements of a service plan, the residents in the area can petition the city for disannexation. If the city fails or refuses to disannex, a cause of action may be brought in district court to disannex the area.

PURPOSE

H.B. 2758 would provide an additional remedy to those seeking enforcement of a service plan from a municipality. Specifically, the bill would amend Sections 43.056(e) and (i), Local Government Code, by allowing a person residing in an area annexed by a municipality to seek a writ of mandamus against a city to enforce its service plan. If a court grants the writ, then the city would be required to pay the costs and attorney's fees incurred in bringing the action.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1 Amends Section 43.056(e), Local Government Code, by splitting subsection (3) into subsections (3)(A) and (3)(B) and by replacing the word "that" in subsection (3)(B) with the word "than."

Amends Section 43.056(i), Local Government Code, by adding language that allows a person residing in an annexed area to enforce a municipality's service plan by applying for a writ of mandamus. If the writ is granted by the court, then the municipality must pay the costs and attorney's fees of the person bringing the action. The subsection is also amended to provide that a writ issued under this subsection must provide the municipality the option of disannexing the area within 30 days.

SECTION 2 Provides that the changes in law made by this Act apply only to annexations that are initiated on or after the effective date of this Act. Former law is continued for annexations initiated prior to the effective date of this Act.

SECTION 3 Emergency clause. Effective upon passage.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute specifies that a court shall award "reasonable" attorney's fees, whereas the original bill did not specify that the fees must be reasonable. The substitute also adds the provision

allowing a municipality the option of disannexing the area, and the substitute inserts a new SECTION 2 providing that the Act applies only to annexations initiated on or after the effective date of the Act.

SUMMARY OF COMMITTEE ACTION

H.B. 2758 was considered by the committee in a public hearing on April 11, 1995.

The following persons testified in favor of the bill:

Sabrina Foster, representing Houston Mayor Bob Lanier; and
William Glass, representing himself and the Wells Branch MUD and the Central Texas Association of Utility Districts.

The following person testified against the bill:

William Bunch, representing the Save Our Springs Legal Defense Fund.

The following person testified neutrally on the bill:

Frank Sturzl, representing the Texas Municipal League.

The bill was reported favorably without amendment, with the recommendation that it do pass and be printed, by a record vote of 7 ayes, 0 nays, 0 pnv, 2 absent.

The vote by which HB 2758 was reported favorably was reconsidered without objection.

The committee considered one amendment to the bill, which was adopted without objection. The Chair directed the staff to incorporate the amendment into a complete committee substitute.

The bill was reported favorably as substituted, with the recommendation that it do pass and be printed, by a record vote of 7 ayes, 0 nays, 0 pnv, 2 absent.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

**FISCAL NOTE
74th Regular Session**

April 17, 1995

**TO: Honorable Robert M. Saunders, Chair
Committee on Land and Resource
Management
House of Representatives
Austin, Texas**

**IN RE: Committee Substitute for
House Bill No. 2758**

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 2758 (relating to the provision of municipal services in an annexed area) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, CT, DF

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

**FISCAL NOTE
74th Regular Session**

April 4, 1995

**TO: Honorable Robert M. Saunders, Chair
Committee on Land and Resource
Management
House of Representatives
Austin, Texas**

**IN RE: House Bill No. 2758
By: Saunders, et al.**

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 2758 (Relating to the provision of municipal services in an annexed area.; Relating to the provision of municipal services in an annexed area.) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, CT, DF

ADOPTED as amended

MAY 9 1995

Cynthia G. Gaudin
Chief Clerk
House of Representatives

By SAUNDERS

H. B. No. 2758

Substitute the following for H. B. No. 2758:

By SAUNDERS

C.S. H. B. No. 2758

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area:

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than ~~[that]~~ are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. The change in law made by this Act applies only
5 to annexations that are initiated on or after the effective date of
6 this Act. The former law is continued in effect for annexations
7 that were initiated prior to the effective date of this Act.

8 SECTION 3. The importance of this legislation and the
9 crowded condition of the calendars in both houses create an
10 emergency and an imperative public necessity that the
11 constitutional rule requiring bills to be read on three several
12 days in each house be suspended, and this rule is hereby suspended,
13 and that this Act take effect and be in force from and after its
14 passage, and it is so enacted.

LIST OF HOUSE AMENDMENTS CONSIDERED

HB2758.2 - Second Reading

AMENDMENT #	AUTHOR	DESCRIPTION	ACTION
1	Bosse	Amendment	Adopted



ADOPTED

MAY 9 1995

Cynthia G. Gaudin
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO. 1

BY Bosse

1 Amend C.S.H.B. No. 2758 by adding a new appropriately
2 numbered section to read as follows and renumbering the existing
3 sections as appropriate:

4 SECTION 2. Subchapter C, Chapter 43, Local Government
5 Code, is amended by adding Section 43.0561 to read as follows:

6 Sec. 43.0561. REDUCTION OF TAXES FOR FAILURE TO PROVIDE
7 ADEQUATE SERVICES. (a) A municipality may not charge the owner of
8 a tract of industrial property municipal ad valorem taxes in excess
9 of the cost of providing municipal services to that property unless
10 the amount spent on providing municipal services to that property
11 in the previous calendar year is at least equal to 35 percent of
12 the ad valorem taxes imposed in the previous calendar year on that
13 property.

14 (b) Instead of applying the tax limit provided by Subsection
15 (a), a municipality may disannex property for which a tax limit is
16 imposed under Subsection (a) but only if the municipality refunds
17 to the owner of the property an amount equal to the difference
18 between the amount of ad valorem taxes paid to the municipality on
19 the property for the previous calendar year and the cost of
20 providing municipal services to that property in the previous
21 calendar year.

22 (c) In this section, "industrial property" means a parcel of
23 real property, according to the deed records of the county, on
24 which are located improvements that are used primarily for

1 manufacturing or processing. The term does not include real
2 property containing improvements that are used primarily for
3 residential, agricultural, or retail purposes or for warehousing
4 that is not incidental to the manufacturing or processing on the
5 property.

2ND READING
ENGROSSMENT

H.B. No. 2758

By Saunders

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area:

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than ~~that~~ are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. Subchapter C, Chapter 43, Local Government Code,
5 is amended by adding Section 43.0561 to read as follows:

6 Sec. 43.0561. REDUCTION OF TAXES FOR FAILURE TO PROVIDE
7 ADEQUATE SERVICES. (a) A municipality may not charge the owner of
8 a tract of industrial property municipal ad valorem taxes in excess
9 of the cost of providing municipal services to that property unless
10 the amount spent on providing municipal services to that property
11 in the previous calendar year is at least equal to 35 percent of
12 the ad valorem taxes imposed in the previous calendar year on that
13 property.

14 (b) Instead of applying the tax limit provided by Subsection
15 (a), a municipality may disannex property for which a tax limit is
16 imposed under Subsection (a) but only if the municipality refunds
17 to the owner of the property an amount equal to the difference
18 between the amount of ad valorem taxes paid to the municipality on
19 the property for the previous calendar year and the cost of
20 providing municipal services to that property in the previous
21 calendar year.

22 (c) In this section, "industrial property" means a parcel of
23 real property, according to the deed records of the county, on
24 which are located improvements that are used primarily for
25 manufacturing or processing. The term does not include real
26 property containing improvements that are used primarily for
27 residential, agricultural, or retail purposes or for warehousing

1 that is not incidental to the manufacturing or processing on the
2 property.

3 SECTION 3. The change in law made by this Act applies only
4 to annexations that are initiated on or after the effective date of
5 this Act. The former law is continued in effect for annexations
6 that were initiated prior to the effective date of this Act.

7 SECTION 4. The importance of this legislation and the
8 crowded condition of the calendars in both houses create an
9 emergency and an imperative public necessity that the
10 constitutional rule requiring bills to be read on three several
11 days in each house be suspended, and this rule is hereby suspended,
12 and that this Act take effect and be in force from and after its
13 passage, and it is so enacted.

HOUSE ENGROSSMENT

By Saunders

H.B. No. 2758

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area:

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than [~~that~~] are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. Subchapter C, Chapter 43, Local Government Code,
5 is amended by adding Section 43.0561 to read as follows:

6 Sec. 43.0561. REDUCTION OF TAXES FOR FAILURE TO PROVIDE
7 ADEQUATE SERVICES. (a) A municipality may not charge the owner of
8 a tract of industrial property municipal ad valorem taxes in excess
9 of the cost of providing municipal services to that property unless
10 the amount spent on providing municipal services to that property
11 in the previous calendar year is at least equal to 35 percent of
12 the ad valorem taxes imposed in the previous calendar year on that
13 property.

14 (b) Instead of applying the tax limit provided by Subsection
15 (a), a municipality may disannex property for which a tax limit is
16 imposed under Subsection (a) but only if the municipality refunds
17 to the owner of the property an amount equal to the difference
18 between the amount of ad valorem taxes paid to the municipality on
19 the property for the previous calendar year and the cost of
20 providing municipal services to that property in the previous
21 calendar year.

22 (c) In this section, "industrial property" means a parcel of
23 real property, according to the deed records of the county, on
24 which are located improvements that are used primarily for
25 manufacturing or processing. The term does not include real
26 property containing improvements that are used primarily for
27 residential, agricultural, or retail purposes or for warehousing

1 that is not incidental to the manufacturing or processing on the
2 property.

3 SECTION 3. The change in law made by this Act applies only
4 to annexations that are initiated on or after the effective date of
5 this Act. The former law is continued in effect for annexations
6 that were initiated prior to the effective date of this Act.

7 SECTION 4. The importance of this legislation and the
8 crowded condition of the calendars in both houses create an
9 emergency and an imperative public necessity that the
10 constitutional rule requiring bills to be read on three several
11 days in each house be suspended, and this rule is hereby suspended,
12 and that this Act take effect and be in force from and after its
13 passage, and it is so enacted.

1 By: Saunders (Senate Sponsor - Ellis) H.B. No. 2758
2 (In the Senate - Received from the House May 11, 1995;
3 May 12, 1995, read first time and referred to Committee on
4 Intergovernmental Relations; May 19, 1995, reported adversely, with
5 favorable Committee Substitute by the following vote: Yeas 8, Nays
6 0; May 19, 1995, sent to printer.)

7 COMMITTEE SUBSTITUTE FOR H.B. No. 2758

By: Ellis

8 A BILL TO BE ENTITLED
9 AN ACT

10 relating to the provision of municipal services in an annexed area.
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 SECTION 1. Sections 43.056(e) and (i), Local Government
13 Code, are amended to read as follows:

14 (e) A service plan may not:

15 (1) require the creation of another political
16 subdivision;

17 (2) require a landowner in the area to fund the
18 capital improvements necessary to provide municipal services in a
19 manner inconsistent with Chapter 395 unless otherwise agreed to by
20 the landowner; or

21 (3) provide fewer services or lower levels of services
22 in the area;

23 (A) than were in existence in the area
24 immediately preceding the date of the annexation; or

25 (B) than ~~that~~ are otherwise available in other
26 parts of the municipality with land uses and population densities
27 similar to those reasonably contemplated or projected in the area.

28 (i) A service plan is valid for 10 years. Renewal of the
29 service plan is at the discretion of the municipality. A person
30 residing in an annexed area may enforce a service plan by applying
31 for a writ of mandamus. If a court issues the writ, the
32 municipality shall pay the person's costs and reasonable attorney's
33 fees in bringing the action. A writ issued under this subsection
34 must provide the municipality the option of disannexing the area
35 within 30 days.

36 SECTION 2. The change in law made by this Act applies only
37 to annexations that are initiated on or after the effective date of
38 this Act. The former law is continued in effect for annexations
39 that were initiated prior to the effective date of this Act.

40 SECTION 3. The importance of this legislation and the
41 crowded condition of the calendars in both houses create an
42 emergency and an imperative public necessity that the
43 constitutional rule requiring bills to be read on three several
44 days in each house be suspended, and this rule is hereby suspended,
45 and that this Act take effect and be in force from and after its
46 passage, and it is so enacted.

47 * * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR

By SAUNDERS / ELLIS

(Author/Senate Sponsor)

5/19/95

(date)

We, your Committee on INTERGOVERNMENTAL RELATIONS, to which was referred the attached measure, have on 5/19/95, had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☒ the caption remained the same as original measure
☐ the caption changed with adoption of the substitute
☐ do pass as substituted, and be ordered not printed
☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Ellis, Chair	<input checked="" type="checkbox"/>			
Leedom, Vice-Chair	<input checked="" type="checkbox"/>			
Cain	<input checked="" type="checkbox"/>			
Gallegos	<input checked="" type="checkbox"/>			
Galloway	<input checked="" type="checkbox"/>			
Madla	<input checked="" type="checkbox"/>			
Patterson	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Rosson	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Shapiro			<input checked="" type="checkbox"/>	
Wentworth			<input checked="" type="checkbox"/>	
Whitmire	<input checked="" type="checkbox"/>			
TOTAL VOTES	8	0	3	0

COMMITTEE ACTION

S260 Considered in public hearing

S270 Testimony taken

COMMITTEE CLERK

CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

BILL ANALYSIS

Senate Research Center

H.B. 2758
By: Saunders (Ellis)
Intergovernmental Relations
05-18-95
Engrossed

BACKGROUND

Chapter 43 of the Local Government Code sets out requirements for a municipality to follow to annex territory. Section 43.056 requires a municipality to prepare a service plan that provides for the extension of full municipal services to an area to be annexed. For most municipalities in Texas, police, fire, emergency services, and garbage collection, must be provided within 60 days after the effective date of the annexation. A municipality is then required to provide all other municipal services to an annexed area within 4 1/2 years after the effective date of the annexation. A service plan is valid for 10 years. The residents in a proposed annexed area can petition the city for disannexation if a city does not comply with the requirements of a service plan.

PURPOSE

As proposed, H.B. 2758 sets forth provisions relating to the provision of municipal services in an annexed area.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 43.056(e) and (i), Local Government Code, to authorize a person residing in an annexed area to enforce a service plan by applying for a writ of mandamus. Requires a municipality to pay a person's costs and reasonable attorney's fees in bringing the action if the court issues a writ. Requires a writ issued under this subsection to provide the municipality the option of disannexing the area within 30 days. Makes nonsubstantive changes.

SECTION 2. Amends Chapter 43C, Local Government Code, by adding Section 43.0561, as follows:

Sec. 43.0561. REDUCTION OF TAXES FOR FAILURE TO PROVIDE ADEQUATE SERVICES. (a) Prohibits a municipality from charging the owner of a tract of industrial property municipal ad valorem taxes in excess of the cost of providing municipal services to that property unless the amount spent on providing municipal services to that property in the previous calendar year is at least equal to 35 percent of the ad valorem taxes imposed in the previous calendar year on that property.

(b) Authorizes a municipality to disannex property for which a tax limit is imposed under Subsection (a) but only if the municipality refunds to the owner of the property an amount equal to the difference between the amount of ad valorem taxes paid to the municipality on the property for the previous calendar year and the cost of providing municipal services to the property in the previous calendar year, instead of applying the tax limit provided by Subsection (a).

(c) Defines "industrial property."

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.
Effective date: upon passage.

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2758
By: Saunders (Ellis)
Intergovernmental Relations
5-22-95
Senate Committee Report (Substituted)

BACKGROUND

Chapter 43 of the Local Government Code sets out requirements for a municipality to follow to annex territory. Section 43.056 requires a municipality to prepare a service plan that provides for the extension of full municipal services to an area to be annexed. For most municipalities in Texas, police, fire, emergency services, and garbage collection, must be provided within 60 days after the effective date of the annexation. A municipality is then required to provide all other municipal services to an annexed area within 4 1/2 years after the effective date of the annexation. A service plan is valid for 10 years. The residents in a proposed annexed area can petition the city for disannexation if a city does not comply with the requirements of a service plan.

PURPOSE

As proposed, C.S.H.B. 2758 sets forth provisions relating to the provision of municipal services in an annexed area.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 43.056(e) and (i), Local Government Code, to authorize a person residing in an annexed area to enforce a service plan by applying for a writ of mandamus. Requires a municipality to pay a person's costs and reasonable attorney's fees in bringing the action if the court issues a writ. Requires a writ issued under this subsection to provide the municipality the option of disannexing the area within 30 days. Makes nonsubstantive changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Emergency clause.
Effective date: upon passage.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
74th Regular Session

May 17, 1995

TO: Honorable Rodney Ellis, Chair
Committee on Intergovernmental Relations
Senate
Austin, Texas

IN RE: House Bill No. 2758,
as engrossed
By: Saunders, et al.

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 2758 (Relating to the provision of municipal services in an annexed area.) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, RS, RR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
74th Regular Session

April 17, 1995

TO: Honorable Robert M. Saunders, Chair
Committee on Land and Resource
Management
House of Representatives
Austin, Texas

IN RE: Committee Substitute for
House Bill No. 2758

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 2758 (relating to the provision of municipal services in an annexed area) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, CT, DF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
74th Regular Session

April 4, 1995

TO: Honorable Robert M. Saunders, Chair
Committee on Land and Resource
Management
House of Representatives
Austin, Texas

IN RE: House Bill No. 2758
By: Saunders, et al.

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 2758 (Relating to the provision of municipal services in an annexed area.; Relating to the provision of municipal services in an annexed area.) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, CT, DF

MSG FROM: S7520A5 --TXLCNJE TO: S0400F4 --TXLCNJE

05/19/95 14:10:51

NOTE

Subject: HB2758 (BILL NO.) WITNESS - INTERGOVERNMENTAL RELATIONS

Revised: _____
WITNESS FORM
74th Legislature

COMMITTEE: Intergovernmental Relations
BILL: HB2758 _____

DATE: 05 19 95

	FOR	AGAINST	ON
Name: Karen Kennard _____			
Representing: TML _____			
City: Austin _____	-	-	x
Name: _____			
Representing: _____			
City: _____	-	-	-
Name: _____			
Representing: _____			
City: _____	-	-	-
Name: _____			
Representing: _____			
City: _____	-	-	-
Name: _____			
Representing: _____			
City: _____	-	-	-
Name: _____			
Representing: _____			
City: _____	-	-	-
Name: _____			
Representing: _____			
City: _____	-	-	-
Name: _____			
Representing: _____			
City: _____	-	-	-

PART ____ OF ____

<<<<===== E N D O F F O R M =====>>>>

ADOPTED

MAY 25 1995

W. L. ...
Secretary of the Senate

By Ellis SAUNDERS

H.B. No. 2758

Substitute the following for H.B. No. 2758:

By Ellis

C.S. H.B. No. 2758

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area:

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than ~~[that]~~ are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. The change in law made by this Act applies only
5 to annexations that are initiated on or after the effective date of
6 this Act. The former law is continued in effect for annexations
7 that were initiated prior to the effective date of this Act.

8 SECTION 3. The importance of this legislation and the
9 crowded condition of the calendars in both houses create an
10 emergency and an imperative public necessity that the
11 constitutional rule requiring bills to be read on three several
12 days in each house be suspended, and this rule is hereby suspended,
13 and that this Act take effect and be in force from and after its
14 passage, and it is so enacted.

FLOOR AMENDMENT 2 *by Wentworth*

Amend C.S.H.B. 2758 by adding a new Section 2 as follows, and renumbering Section 2 as Section 3, and Section 3 as Section 4.

SECTION 2. Section 43.056, Local Government Code, is amended by adding Section 43.056 (b-2) to read as follows:

(a) The service plan for the annexation by a municipality which provides both water and sewer service of an area that is:

(1) 40 acres or more in size;

(2) located entirely in a county with a population greater than 260,000;

(3) located in the extraterritorial jurisdiction limits of a general law town with a population of more than 1,000 but less than 2,500 which provides water and does not provide sewer service; and

(4) adjacent or contiguous to the corporate limits of the municipality which provides both water and sewer service; must include a program under which the annexing municipality will provide both water and sewer service to the area within 3 1/2 years after the effective date of the annexation.

(b) The municipality which provides both water and sewer service may annex the area upon receipt of a petition of those landowners requesting annexation. Upon receipt of the petition, the extraterritorial jurisdiction of the general law town which does not provide sewer service will be deemed automatically released. The provisions of Section 43.051, existing agreed court orders or existing boundary adjustment agreements, if any, do not apply to annexation of an area pursuant to this Section.

(d) This legislation shall expire on March 31, 1996. If there is pending litigation at that time in effect regarding the validity of any annexations involving areas subject to this section, the expiration period shall automatically be extended until such litigation is resolved.

ADOPTED

MAY 25 1995

David L. ...
Secretary of the Senate

SENATE AMENDMENTS

2nd Printing

SENATE AMENDMENTS

HOUSE OF REPRESENTATIVES

By Saunders

H.B. No. 2758

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area:

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than ~~[that]~~ are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. Subchapter C, Chapter 43, Local Government Code,
5 is amended by adding Section 43.0561 to read as follows:

6 Sec. 43.0561. REDUCTION OF TAXES FOR FAILURE TO PROVIDE
7 ADEQUATE SERVICES. (a) A municipality may not charge the owner of
8 a tract of industrial property municipal ad valorem taxes in excess
9 of the cost of providing municipal services to that property unless
10 the amount spent on providing municipal services to that property
11 in the previous calendar year is at least equal to 35 percent of
12 the ad valorem taxes imposed in the previous calendar year on that
13 property.

14 (b) Instead of applying the tax limit provided by Subsection
15 (a), a municipality may disannex property for which a tax limit is
16 imposed under Subsection (a) but only if the municipality refunds
17 to the owner of the property an amount equal to the difference
18 between the amount of ad valorem taxes paid to the municipality on
19 the property for the previous calendar year and the cost of
20 providing municipal services to that property in the previous
21 calendar year.

22 (c) In this section, "industrial property" means a parcel of
23 real property, according to the deed records of the county, on
24 which are located improvements that are used primarily for
25 manufacturing or processing. The term does not include real
26 property containing improvements that are used primarily for
27 residential, agricultural, or retail purposes or for warehousing

1 that is not incidental to the manufacturing or processing on the
2 property.

3 SECTION 3. The change in law made by this Act applies only
4 to annexations that are initiated on or after the effective date of
5 this Act. The former law is continued in effect for annexations
6 that were initiated prior to the effective date of this Act.

7 SECTION 4. The importance of this legislation and the
8 crowded condition of the calendars in both houses create an
9 emergency and an imperative public necessity that the
10 constitutional rule requiring bills to be read on three several
11 days in each house be suspended, and this rule is hereby suspended,
12 and that this Act take effect and be in force from and after its
13 passage, and it is so enacted.

ADOPTED

MAY 25 1995

W. L. King
Secretary of the Senate

By Ellis SAUNDERS

H.B. No. 2758

Substitute the following for H.B. No. 2758:

By Ellis

C.S. H.B. No. 2758

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area:

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than ~~[that]~~ are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. The change in law made by this Act applies only
5 to annexations that are initiated on or after the effective date of
6 this Act. The former law is continued in effect for annexations
7 that were initiated prior to the effective date of this Act.

8 SECTION 3. The importance of this legislation and the
9 crowded condition of the calendars in both houses create an
10 emergency and an imperative public necessity that the
11 constitutional rule requiring bills to be read on three several
12 days in each house be suspended, and this rule is hereby suspended,
13 and that this Act take effect and be in force from and after its
14 passage, and it is so enacted.

FLOOR AMENDMENT 2 *by Wentworth*

Amend C.S.H.B. 2758 by adding a new Section 2 as follows, and renumbering Section 2 as Section 3, and Section 3 as Section 4.

SECTION 2. Section 43.056, Local Government Code, is amended by adding Section 43.056 (b-2) to read as follows:

(a) The service plan for the annexation by a municipality which provides both water and sewer service of an area that is:

(1) 40 acres or more in size;

(2) located entirely in a county with a population greater than 260,000;

(3) located in the extraterritorial jurisdiction limits of a general law town with a population of more than 1,000 but less than 2,500 which provides water and does not provide sewer service; and

(4) adjacent or contiguous to the corporate limits of the municipality which provides both water and sewer service; must include a program under which the annexing municipality will provide both water and sewer service to the area within 3 1/2 years after the effective date of the annexation.

(b) The municipality which provides both water and sewer service may annex the area upon receipt of a petition of those landowners requesting annexation. Upon receipt of the petition, the extraterritorial jurisdiction of the general law town which does not provide sewer service will be deemed automatically released. The provisions of Section 43.051, existing agreed court orders or existing boundary adjustment agreements, if any, do not apply to annexation of an area pursuant to this Section.

(d) This legislation shall expire on March 31, 1996. If there is pending litigation at that time in effect regarding the validity of any annexations involving areas subject to this section, the expiration period shall automatically be extended until such litigation is resolved.

ADOPTED

MAY 25 1995

Donna L. Smith
Secretary of the Senate

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
74th Regular Session

May 19, 1995

TO: Honorable Rodney Ellis, Chair
Committee on Intergovernmental Relations
Senate
Austin, Texas

IN RE: Committee Substitute for
House Bill No. 2758
By: Saunders

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 2758 (Relating to the provision of municipal services in an annexed area.) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, RS, RR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
74th Regular Session

May 17, 1995

TO: Honorable Rodney Ellis, Chair
Committee on Intergovernmental Relations
Senate
Austin, Texas

IN RE: House Bill No. 2758,
as engrossed
By: Saunders, et al.

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 2758 (Relating to the provision of municipal services in an annexed area.) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, RS, RR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
74th Regular Session

April 17, 1995

TO: Honorable Robert M. Saunders, Chair
Committee on Land and Resource
Management
House of Representatives
Austin, Texas

IN RE: Committee Substitute for
House Bill No. 2758

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 2758 (relating to the provision of municipal services in an annexed area) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, CT, DF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
74th Regular Session

April 4, 1995

TO: Honorable Robert M. Saunders, Chair
Committee on Land and Resource
Management
House of Representatives
Austin, Texas

IN RE: House Bill No. 2758
By: Saunders, et al.

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 2758 (Relating to the provision of municipal services in an annexed area.; Relating to the provision of municipal services in an annexed area.) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, CT, DF

CONFERENCE COMMITTEE REPORT FORM

ADOPTED

MAY 28 1995

Cynthia Burkhardt
Chief Clerk
House of Representatives

record vote
145 yeas 0 nays
May 27, 1995

Austin, Texas

Date

HOUSE OF REPRESENTATIVES

95 MAY 27 PM 4:06

Honorable Bob Bullock
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 2758 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Sen. Ellis, Chair

Sen. Wentworth

Sen. Rosson

Sen. Gallegos

On the part of the Senate

Sen. Galloway

Rep. Saunders, Chair

Rep. Yost

Rep. Bob Turner

Rep. Krusee

On the part of the House

Rep. Mowery

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

H.B. No. 2758

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area:

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than ~~that~~ are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. Subchapter C, Chapter 43, Local Government Code,
5 is amended by adding Section 43.0561 to read as follows:

6 Sec. 43.0561. RELEASE OF EXTRATERRITORIAL JURISDICTION BY
7 GENERAL LAW MUNICIPALITY OVER CERTAIN TRACTS OF LAND. (a) This
8 section applies only to a tract of property that is:

9 (1) 40 or more acres in size;

10 (2) located entirely in a county with a population of
11 more than 260,000; and

12 (3) located in the extraterritorial jurisdiction of a
13 general law municipality with a population of more than 1,000 but
14 less than 2,500 that provides water but not sewer services.

15 (b) The owner of a tract of land to which this section
16 applies that is adjacent to the corporate limits of another
17 municipality may petition the governing body of that other
18 municipality for annexation. On receipt of a petition, the
19 municipality may annex the area if the municipality agrees to a
20 service plan that provides both water and sewer services to the
21 tract not later than 3-1/2 years after the date of the annexation.
22 On annexation, the area is released from the extraterritorial
23 jurisdiction of the municipality described by Subsection (a)(3) and
24 becomes a part of the municipality agreeing to provide water and
25 sewer services.

26 (c) This section expires March 31, 1996, unless there is
27 litigation pending at that time involving the validity of the

1 annexation of a tract of land to which this section applies. If
2 litigation is pending, this section remains in effect until a court
3 enters a final judgment in the case.

4 SECTION 3. The change in law made by Section 1 of this Act
5 applies only to annexations that are initiated on or after the
6 effective date of this Act. The former law is continued in effect
7 for annexations that were initiated prior to the effective date of
8 this Act.

9 SECTION 4. The importance of this legislation and the
10 crowded condition of the calendars in both houses create an
11 emergency and an imperative public necessity that the
12 constitutional rule requiring bills to be read on three several
13 days in each house be suspended, and this rule is hereby suspended,
14 and that this Act take effect and be in force from and after its
15 passage, and it is so enacted.

A Side-By-Side Analysis of the Senate and House Versions of HB 2758
Re: Municipal Service Plans in an Annexed Area

House Version of HB 2758	Senate Version of HB 2758	Conference Committee Report
<p>SECTION 1. Sec. 43.056(e) and 43.056(i), Local Government Code, V.T.C.S.</p> <p>(e) Provides that a municipal service plan may not:</p> <ul style="list-style-type: none"> (1) require a political subdivision to be created; (2) require a landowner to fund capital improvements inconsistent with Chapter 395, without landowner agreement; or (3) provide fewer services than were in existence prior to annexation or are available in other similar areas of the municipality. <p>Subsection (e)(3) is split into (e)(3)(A) and (e)(3)(B).</p> <p>(i) Provides that municipal service plans are valid for 10 years and are renewable at the city's discretion. New language added allows a person residing in an annexed area to enforce a municipality's service plan by applying for a writ of mandamus. If the writ is granted by the court, then the municipality must pay the costs and attorney's fees of the person bringing the action. The subsection is also amended to provide that a writ issued under this subsection must provide the municipality the option of disannexing the area within 30 days.</p>	<p>SECTION 1. Sec. 43.056(e) and 43.056(i), Local Government Code, V.T.C.S.</p> <p>Same.</p>	<p>SECTION 1. Sec. 43.056(e) and 43.056(i), Local Government Code, V.T.C.S.</p> <p>House-Senate Version.</p>

<p>SECTION 2. Sec. 43.0561, Subchapter C, Chapter 43, Local Government Code, V.T.C.S. Reduction of Taxes for Failure to Provide Adequate Services.</p> <p>(a) Provides that a municipality may not charge industrial property owners for municipal ad valorem taxes in excess of the cost of providing of municipal services to the property unless the amount spent on services provided is at least equal to 35 percent of the ad valorem taxes on the property in the previous calendar year.</p> <p>(b) Allows a municipality to disannex an are covered under subsection (a) only if the municipality refunds to the property owner the difference between the ad valorem taxes paid to the city and the cost of the services provided by the city to the property for the previous calendar year.</p> <p>(c) Defines "industrial property" as that term is used in this section.</p>	<p>SECTION 2. Sec. 43.056, Supchapter C, Chapter 43, Local Government Code, V.T.C.S.</p> <p>Adds new subsection (b-2) as follows:</p> <p>(a) the applicability of this section to a tract of property that is:</p> <ol style="list-style-type: none"> (1) 40 or more acres in size; (2) located entirely in a county with a population of more than 260,000; and (3) located in the ETJ of a general law city with population between 1,000 and 2,500 and that provide water but not sewer service. (4) adjacent or contiguous to the corporate limits of a city which provides both water and sewer service, and which must provide water and sewer service within 3-1/2 years after annexation; <p>(b) provides that the city providing water and sewer may annex an area upon receipt of a petition by a landowner under this section. Upon annexation, the tract annexed is released from the ETJ of the city not providing sewer service and becomes part of the city providing water and sewer services. Also, the provisions of Sec. 43.051, existing agreed court orders, or existing boundary adjustment agreements do not apply to the annexation of an area under this section.</p> <p>(d) Provides that this section expires March 31, 1996, unless litigation is pending at that time regarding the validity of the annexation of a tract under this section, in which case the section remains in effect until the litigation is resolved.</p>	<p>SECTION 2. Section 43.0561, Subchapter C, Chapter 43, Local Government Code, V.T.C.S. Release of Extraterritorial Jurisdiction By General Law Municipality over Certain Tracts of Land.</p> <p>(a) restricts the applicability of this section to a tract of property that is:</p> <ol style="list-style-type: none"> (1) 40 or more acres in size; (2) located entirely in a county with a population of more than 260,000; and (3) located in the ETJ of a general law city with population between 1,000 and 2,500 and that provides water but not sewer service. <p>(b) provides that the owner of a tract of land under this section that is adjacent to the corporate limits of another city may petition that city for annexation. The city may annex the tract, if the city agrees to provide water and sewer service within 3-1/2 years after annexation. Upon annexation, the tract annexed is released from the ETJ of the city described in subsection (a)(3) and becomes part of the city providing water and sewer services.</p> <p>(c) Provides that this section expires March 31, 1996, unless litigation is pending at that time regarding the validity of the annexation of a tract under this section, in which case the section remains in effect until the cours enters a final judgment regarding the pending litigation.</p>
---	---	---

House Version of HB 2758	Senate Version of HB 2758	Conference Committee Report
SECTION 3. Provides that the change in law made by the Act applies only to annexations initiated after the effective date of the Act. Prior law remains in effect for annexations initiated prior to the effective date of this Act.	SECTION 3. Provides that the change in law by SECTION 1 of this Act applies only to annexations initiated on or after the effective date of this Act. Prior law remains in effect for annexations initiated before the effective date of this Act.	SECTION 3. Conference Committee Report Version.
SECTION 4. Emergency Clause.	SECTION 4. Emergency Clause.	SECTION 4. Emergency Clause

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

Date

Honorable Bob Bullock
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on _____ have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

On the part of the Senate

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

MAY 27 1995 *Filed with the Secretary of the Senate*

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 27, 1995

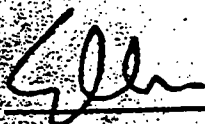
Date

Honorable Bob Bullock
President of the Senate

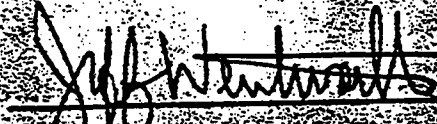
Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 2758 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



Sen. Ellis, Chair



Sen. Wentworth



Sen. Ross

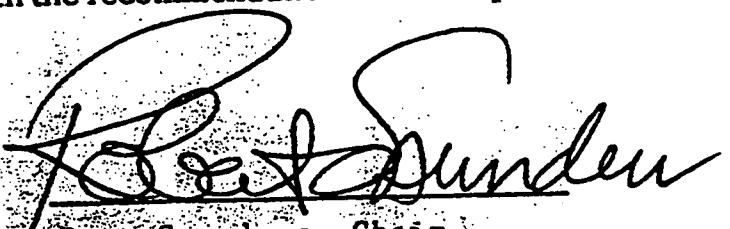


Sen. Galloway



On the part of the Senate

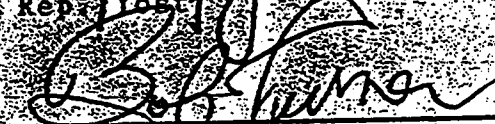
Sen. Galloway



Rep. Saunders, Chair



Rep. Yost



Rep. Bob Turner

Rep. Krusee



On the part of the House

Rep. Mowery

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2758

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area:

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than [that] are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. Subchapter C, Chapter 43, Local Government Code,
5 is amended by adding Section 43.0561 to read as follows:

6 Sec. 43.0561. RELEASE OF EXTRATERRITORIAL JURISDICTION BY
7 GENERAL LAW MUNICIPALITY OVER CERTAIN TRACTS OF LAND. (a) This
8 section applies only to a tract of property that is:

- 9 (1) 40 or more acres in size;
10 (2) located entirely in a county with a population of
11 more than 260,000; and
12 (3) located in the extraterritorial jurisdiction of a
13 general law municipality with a population of more than 1,000 but
14 less than 2,500 that provides water but not sewer services.

15 (b) The owner of a tract of land to which this section
16 applies that is adjacent to the corporate limits of another
17 municipality may petition the governing body of that other
18 municipality for annexation. On receipt of a petition, the
19 municipality may annex the area if the municipality agrees to a
20 service plan that provides both water and sewer services to the
21 tract not later than 3-1/2 years after the date of the annexation.
22 On annexation, the area is released from the extraterritorial
23 jurisdiction of the municipality described by Subsection (a)(3) and
24 becomes a part of the municipality agreeing to provide water and
25 sewer services.

26 (c) This section expires March 31, 1996, unless there is
27 litigation pending at that time involving the validity of the

1 annexation of a tract of land to which this section applies. If
2 litigation is pending, this section remains in effect until a court
3 enters a final judgment in the case.

4 SECTION 3. The change in law made by Section 1 of this Act
5 applies only to annexations that are initiated on or after the
6 effective date of this Act. The former law is continued in effect
7 for annexations that were initiated prior to the effective date of
8 this Act.

9 SECTION 4. The importance of this legislation and the
10 crowded condition of the calendars in both houses create an
11 emergency and an imperative public necessity that the
12 constitutional rule requiring bills to be read on three several
13 days in each house be suspended, and this rule is hereby suspended,
14 and that this Act take effect and be in force from and after its
15 passage, and it is so enacted.

A Side-By-Side Analysis of the Senate and House Versions of HB 2758
Re: Municipal Service Plans in an Annexed Area

House Version of HB 2758	Senate Version of HB 2758	Conference Committee Report
<p>SECTION 1. Sec. 43.056(e) and 43.056(i), Local Government Code, V.T.C.S.</p> <p>(e) Provides that a municipal service plan may not:</p> <ul style="list-style-type: none"> (1) require a political subdivision to be created; (2) require a landowner to fund capital improvements inconsistent with Chapter 395, without landowner agreement; or (3) provide fewer services than were in existence prior to annexation or are available in other similar areas of the municipality. <p>Subsection (e)(3) is split into (e)(3)(A) and (e)(3)(B).</p> <p>(i) Provides that municipal service plans are valid for 10 years and are renewable at the city's discretion. New language added allows a person residing in an annexed area to enforce a municipality's service plan by applying for a writ of mandamus. If the writ is granted by the court, then the municipality must pay the costs and attorney's fees of the person bringing the action. The subsection is also amended to provide that a writ issued under this subsection must provide the municipality the option of disannexing the area within 30 days.</p>	<p>SECTION 1. Sec. 43.056(e) and 43.056(i), Local Government Code, V.T.C.S.</p> <p>Same.</p>	<p>SECTION 1. Sec. 43.056(e) and 43.056(i), Local Government Code, V.T.C.S.</p> <p>House-Senate Version.</p>

May 27, 1995

SECTION 2. Sec. 43.0561, Subchapter C, Chapter 43, Local Government Code, V.T.C.S. Reduction of Taxes for Failure to Provide Adequate Services.

(a) Provides that a municipality may not charge industrial property owners for municipal ad valorem taxes in excess of the cost of providing of municipal services to the property unless the amount spent on services provided is at least equal to 35 percent of the ad valorem taxes on the property in the previous calendar year.

(b) Allows a municipality to disannex an are covered under subsection (a) only if the municipality refunds to the property owner the difference between the ad valorem taxes paid to the city and the cost of the services provided by the city to the property for the previous calendar year.

(c) Defines "industrial property" as that term is used in this section.

SECTION 2. Sec. 43.056, Supchapter C, Chapter 43, Local Government Code, V.T.C.S.

Adds new subsection (b-2) as follows:

(a) the applicability of this section to a tract of property that is:

- (1) 40 or more acres in size;
- (2) located entirely in a county with a population of more than 260,000; and
- (3) located in the ETJ of a general law city with population between 1,000 and 2,500 and that provide water but not sewer service.

(4) adjacent or contiguous to the corporate limits of a city which provides both water and sewer service, and which must provide water and sewer service within 3-1/2 years after annexation;

(b) provides that the city providing water and sewer may annex an area upon receipt of a petition by a landowner under this section. Upon annexation, the tract annexed is released from the ETJ of the city not providing sewer service and becomes part of the city providing water and sewer services. Also, the provisions of Sec. 43.051, existing agreed court orders, or existing boundary adjustment agreements do not apply to the annexation of an area under this section.

(d) Provides that this section expires March 31, 1996, unless litigation is pending at that time regarding the validity of the annexation of a tract under this section, in which case the section remains in effect until the litigation is resolved.

SECTION 2. Section 43.0561, Subchapter C, Chapter 43, Local Government Code, V.T.C.S. Release of Extraterritorial Jurisdiction By General Law Municipality over Certain Tracts of Land.

(a) restricts the applicability of this section to a tract of property that is:

- (1) 40 or more acres in size;
- (2) located entirely in a county with a population of more than 260,000; and
- (3) located in the ETJ of a general law city with population between 1,000 and 2,500 and that provides water but not sewer service.

(b) provides that the owner of a tract of land under this section that is adjacent to the corporate limits of another city may petition that city for annexation.

The city may annex the tract, if the city agrees to provide water and sewer service within 3-1/2 years after annexation. Upon annexation, the tract annexed is released from the ETJ of the city described in subsection (a)(3) and becomes part of the city providing water and sewer services.

(c) Provides that this section expires March 31, 1996, unless litigation is pending at that time regarding the validity of the annexation of a tract under this section, in which case the section remains in effect until the cours enters a final judgment regarding the pending litigation.

House Version of HB 2758	Senate Version of HB 2758	Conference Committee Report
SECTION 3. Provides that the change in law made by the Act applies only to annexations initiated after the effective date of the Act. Prior law remains in effect for annexations initiated prior to the effective date of this Act.	SECTION 3. Provides that the change in law by SECTION 1 of this Act applies only to annexations initiated on or after the effective date of this Act. Prior law remains in effect for annexations initiated before the effective date of this Act.	SECTION 3. Conference Committee Report Version.
SECTION 4. Emergency Clause.	SECTION 4. Emergency Clause.	SECTION 4. Emergency Clause

May 27, 1995

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 27, 1995

Date

HOUSE OF REPRESENTATIVES

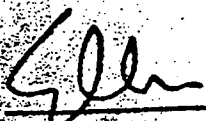
95 MAY 27 PM 4:06

Honorable Bob Bullock
President of the Senate

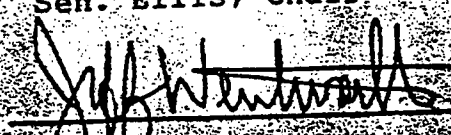
Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 2758 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



Sen. Ellis, Chair



Sen. Wentworth



Sen. Rosson

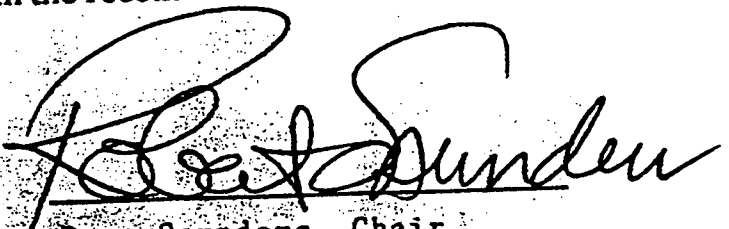


Sen. Galloway

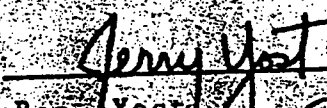


On the part of the Senate

Sen. Galloway



Rep. Saunders, Chair

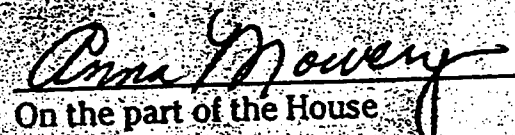


Rep. Yost



Rep. Bob Turner

Rep. Krusee



On the part of the House

Rep. Mowery

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2758

A BILL TO BE ENTITLED

AN ACT

relating to the provision of municipal services in an annexed area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 43.056(e) and (i), Local Government Code, are amended to read as follows:

(e) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; or

(3) provide fewer services or lower levels of services in the area;

(A) than were in existence in the area immediately preceding the date of the annexation; or

(B) than [~~that~~] are otherwise available in other parts of the municipality with land uses and population densities similar to those reasonably contemplated or projected in the area.

(i) A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing in an annexed area may enforce a service plan by applying for a writ of mandamus. If a court issues the writ, the municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. Subchapter C, Chapter 43, Local Government Code,
5 is amended by adding Section 43.0561 to read as follows:

6 Sec. 43.0561. RELEASE OF EXTRATERRITORIAL JURISDICTION BY
7 GENERAL LAW MUNICIPALITY OVER CERTAIN TRACTS OF LAND. (a) This
8 section applies only to a tract of property that is:

9 (1) 40 or more acres in size;

10 (2) located entirely in a county with a population of
11 more than 260,000; and

12 (3) located in the extraterritorial jurisdiction of a
13 general law municipality with a population of more than 1,000 but
14 less than 2,500 that provides water but not sewer services.

15 (b) The owner of a tract of land to which this section
16 applies that is adjacent to the corporate limits of another
17 municipality may petition the governing body of that other
18 municipality for annexation. On receipt of a petition, the
19 municipality may annex the area if the municipality agrees to a
20 service plan that provides both water and sewer services to the
21 tract not later than 3-1/2 years after the date of the annexation.
22 On annexation, the area is released from the extraterritorial
23 jurisdiction of the municipality described by Subsection (a)(3) and
24 becomes a part of the municipality agreeing to provide water and
25 sewer services.

26 (c) This section expires March 31, 1996, unless there is
27 litigation pending at that time involving the validity of the

1 annexation of a tract of land to which this section applies. If
2 litigation is pending, this section remains in effect until a court
3 enters a final judgment in the case.

4 SECTION 3. The change in law made by Section 1 of this Act
5 applies only to annexations that are initiated on or after the
6 effective date of this Act. The former law is continued in effect
7 for annexations that were initiated prior to the effective date of
8 this Act.

9 SECTION 4. The importance of this legislation and the
10 crowded condition of the calendars in both houses create an
11 emergency and an imperative public necessity that the
12 constitutional rule requiring bills to be read on three several
13 days in each house be suspended, and this rule is hereby suspended,
14 and that this Act take effect and be in force from and after its
15 passage, and it is so enacted.

A Side-By-Side Analysis of the Senate and House Versions of HB 2758
Re: Municipal Service Plans in an Annexed Area

House Version of HB 2758	Senate Version of HB 2758	Conference Committee Report
<p>SECTION 1. Sec. 43.056(e) and 43.056(i), Local Government Code, V.T.C.S.</p> <p>(e) Provides that a municipal service plan may not:</p> <ol style="list-style-type: none"> (1) require a political subdivision to be created; (2) require a landowner to fund capital improvements inconsistent with Chapter 395, without landowner agreement; or (3) provide fewer services than were in existence prior to annexation or are available in other similar areas of the municipality. <p>Subsection (e)(3) is split into (e)(3)(A) and (e)(3)(B).</p> <p>(i) Provides that municipal service plans are valid for 10 years and are renewable at the city's discretion. New language added allows a person residing in an annexed area to enforce a municipality's service plan by applying for a writ of mandamus. If the writ is granted by the court, then the municipality must pay the costs and attorney's fees of the person bringing the action. The subsection is also amended to provide that a writ issued under this subsection must provide the municipality the option of disannexing the area within 30 days.</p>	<p>SECTION 1. Sec. 43.056(e) and 43.056(i), Local Government Code, V.T.C.S.</p> <p>Same.</p>	<p>SECTION 1. Sec. 43.056(e) and 43.056(i), Local Government Code, V.T.C.S.</p> <p>House-Senate Version.</p>

SECTION 2. Sec. 43.0561, Subchapter C, Chapter 43, Local Government Code, V.T.C.S. Reduction of Taxes for Failure to Provide Adequate Services.

(a) Provides that a municipality may not charge industrial property owners for municipal ad valorem taxes in excess of the cost of providing of municipal services to the property unless the amount spent on services provided is at least equal to 35 percent of the ad valorem taxes on the property in the previous calendar year.

(b) Allows a municipality to disannex an are covered under subsection (a) only if the municipality refunds to the property owner the difference between the ad valorem taxes paid to the city and the cost of the services provided by the city to the property for the previous calendar year.

(c) Defines "industrial property" as that term is used in this section.

SECTION 2. Sec. 43.056, Supchapter C, Chapter 43, Local Government Code, V.T.C.S.

Adds new subsection (b-2) as follows:

(a) the applicability of this section to a tract of property that is:

- (1) 40 or more acres in size;
- (2) located entirely in a county with a population of more than 260,000; and
- (3) located in the ETJ of a general law city with population between 1,000 and 2,500 and that provide water but not sewer service.

(4) adjacent or contiguous to the corporate limits of a city which provides both water and sewer service, and which must provide water and sewer service within 3-1/2 years after annexation;

(b) provides that the city providing water and sewer may annex an area upon receipt of a petition by a landowner under this section. Upon annexation, the tract annexed is released from the ETJ of the city not providing sewer service and becomes part of the city providing water and sewer services. Also, the provisions of Sec. 43.051, existing agreed court orders, or existing boundary adjustment agreements do not apply to the annexation of an area under this section.

(d) Provides that this section expires March 31, 1996, unless litigation is pending at that time regarding the validity of the annexation of a tract under this section, in which case the section remains in effect until the litigation is resolved.

SECTION 2. Section 43.0561, Subchapter C, Chapter 43, Local Government Code, V.T.C.S. Release of Extraterritorial Jurisdiction By General Law Municipality over Certain Tracts of Land.

(a) restricts the applicability of this section to a tract of property that is:

- (1) 40 or more acres in size;
- (2) located entirely in a county with a population of more than 260,000; and
- (3) located in the ETJ of a general law city with population between 1,000 and 2,500 and that provides water but not sewer service.

(b) provides that the owner of a tract of land under this section that is adjacent to the corporate limits of another city may petition that city for annexation.

The city may annex the tract, if the city agrees to provide water and sewer service within 3-1/2 years after annexation. Upon annexation, the tract annexed is released from the ETJ of the city described in subsection (a)(3) and becomes part of the city providing water and sewer services.

(c) Provides that this section expires March 31, 1996, unless litigation is pending at that time regarding the validity of the annexation of a tract under this section, in which case the section remains in effect until the cours enters a final judgment regarding the pending litigation.

House Version of HB 2758	Senate Version of HB 2758	Conference Committee Report
SECTION 3. Provides that the change in law made by the Act applies only to annexations initiated after the effective date of the Act. Prior law remains in effect for annexations initiated prior to the effective date of this Act.	SECTION 3. Provides that the change in law by SECTION 1 of this Act applies only to annexations initiated on or after the effective date of this Act. Prior law remains in effect for annexations initiated before the effective date of this Act.	SECTION 3. Conference Committee Report Version.
SECTION 4. Emergency Clause.	SECTION 4. Emergency Clause.	SECTION 4. Emergency Clause

^F
ENROLLED

H.B. No. 2758

1 AN ACT

2 relating to the provision of municipal services in an annexed area.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Sections 43.056(e) and (i), Local Government
5 Code, are amended to read as follows:

6 (e) A service plan may not:

7 (1) require the creation of another political
8 subdivision;

9 (2) require a landowner in the area to fund the
10 capital improvements necessary to provide municipal services in a
11 manner inconsistent with Chapter 395 unless otherwise agreed to by
12 the landowner; or

13 (3) provide fewer services or lower levels of services
14 in the area:

15 (A) than were in existence in the area
16 immediately preceding the date of the annexation; or

17 (B) than [~~that~~] are otherwise available in other
18 parts of the municipality with land uses and population densities
19 similar to those reasonably contemplated or projected in the area.

20 (i) A service plan is valid for 10 years. Renewal of the
21 service plan is at the discretion of the municipality. A person
22 residing in an annexed area may enforce a service plan by applying
23 for a writ of mandamus. If a court issues the writ, the
24 municipality shall pay the person's costs and reasonable attorney's

1 fees in bringing the action. A writ issued under this subsection
2 must provide the municipality the option of disannexing the area
3 within 30 days.

4 SECTION 2. Subchapter C, Chapter 43, Local Government Code,
5 is amended by adding Section 43.0561 to read as follows:

6 Sec. 43.0561. RELEASE OF EXTRATERRITORIAL JURISDICTION BY
7 GENERAL LAW MUNICIPALITY OVER CERTAIN TRACTS OF LAND. (a) This
8 section applies only to a tract of property that is:

9 (1) 40 or more acres in size;

10 (2) located entirely in a county with a population of
11 more than 260,000; and

12 (3) located in the extraterritorial jurisdiction of a
13 general law municipality with a population of more than 1,000 but
14 less than 2,500 that provides water but not sewer services.

15 (b) The owner of a tract of land to which this section
16 applies that is adjacent to the corporate limits of another
17 municipality may petition the governing body of that other
18 municipality for annexation. On receipt of a petition, the
19 municipality may annex the area if the municipality agrees to a
20 service plan that provides both water and sewer services to the
21 tract not later than 3-1/2 years after the date of the annexation.
22 On annexation, the area is released from the extraterritorial
23 jurisdiction of the municipality described by Subsection (a)(3) and
24 becomes a part of the municipality agreeing to provide water and
25 sewer services.

26 (c) This section expires March 31, 1996, unless there is
27 litigation pending at that time involving the validity of the

1 annexation of a tract of land to which this section applies. If
2 litigation is pending, this section remains in effect until a court
3 enters a final judgment in the case.

4 SECTION 3. The change in law made by Section 1 of this Act
5 applies only to annexations that are initiated on or after the
6 effective date of this Act. The former law is continued in effect
7 for annexations that were initiated prior to the effective date of
8 this Act.

9 SECTION 4. The importance of this legislation and the
10 crowded condition of the calendars in both houses create an
11 emergency and an imperative public necessity that the
12 constitutional rule requiring bills to be read on three several
13 days in each house be suspended, and this rule is hereby suspended,
14 and that this Act take effect and be in force from and after its
15 passage, and it is so enacted.

H.B. No. 2758

President of the Senate

Speaker of the House

I certify that H.B. No. 2758 was passed by the House on May 10, 1995, by the following vote: Yeas 137, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2758 on May 26, 1995, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2758 on May 28, 1995, by the following vote: Yeas 145, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 2758

I certify that H.B. No. 2758 was passed by the Senate, with amendments, on May 25, 1995, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2758 on May 29, 1995, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED:

Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 2758 was passed by the House on
(1)

May 10, 1995, by the following vote:
(2)

Yeas 137, Nays 0, 1 present not voting
(3) (4)

that the House refused to concur in Senate amendments to H.B. No. 2758
on May 26, 1995, and requested the
(5)

appointment of a conference committee to consider the differences
between the two houses; and that the House adopted the conference
committee report on H.B. No. 2758 on May 28, 1995, by
(6)

the following vote: Yeas 145, Nays 0, 1 present not voting
(7) (8)

Chief Clerk of the House

**** Preparation: CT43;

I certify that H.B. No. 2758 was passed by the Senate, with
(1)
amendments, on May 25, 1995, by the following
(2)

vote: Yeas 31, Nays 0
(3) (4)

at the request of the House, the Senate appointed a conference
committee to consider the differences between the two houses;
and that the Senate adopted the conference committee report on
H.B. No. 2758 on May 29, 1995, by the following vote:
(5)

Yeas 30, Nays 1
(6) (7)

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: CT44;

BILL ANALYSIS

Senate Research Center

H.B. 2758
By: Saunders (Ellis)
Intergovernmental Relations
07-03-95
Enrolled

BACKGROUND

Chapter 43 of the Local Government Code sets out requirements for a municipality to follow to annex territory. Section 43.056 requires a municipality to prepare a service plan that provides for the extension of full municipal services to an area to be annexed. For most municipalities in Texas, police, fire, emergency services, and garbage collection, must be provided within 60 days after the effective date of the annexation. A municipality is then required to provide all other municipal services to an annexed area within 4 1/2 years after the effective date of the annexation. A service plan is valid for 10 years. The residents in a proposed annexed area can petition the city for disannexation if a city does not comply with the requirements of a service plan.

PURPOSE

As enrolled, H.B. 2758 sets forth provisions relating to the provision of municipal services in an annexed area.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 43.056(e) and (i), Local Government Code, to authorize a person residing in an annexed area to enforce a service plan by applying for a writ of mandamus. Requires a municipality to pay a person's costs and reasonable attorney's fees in bringing the action if the court issues a writ. Requires a writ issued under this subsection to provide the municipality the option of disannexing the area within 30 days. Makes nonsubstantive changes.

SECTION 2. Amends Chapter 43C, Local Government Code, by adding Section 43.0561, as follows:

Sec. 43.0561. RELEASE OF EXTRATERRITORIAL JURISDICTION BY GENERAL LAW MUNICIPALITY OVER CERTAIN TRACTS OF LAND. (a) Provides that this section applies only to certain tracts of property.

(b) Authorizes the owner of a tract of land to which this section applies that is adjacent to the corporate limits of another municipality to petition the governing body of the other municipality for annexation. Authorizes the municipality to annex the area if the municipality agrees to a service plan that provides both water and sewer services to the tract not later than 3-1/2 years after the date of the annexation, on receipt of the petition. Provides that the area is released from the extraterritorial jurisdiction of the municipality described by Subsection (a)(3) and becomes a part of the municipality agreeing to provide water and sewer services on annexation.

(c) Provides that this section expires March 31, 1996, unless there is litigation pending at the time involving the validity of the annexation of a tract of land to which this section applies. Provides that if the litigation is pending, this section remains in effect until a court enters a final judgment in the case.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.
Effective date: upon passage.

H.B. No. 2758

By Stunden

A BILL TO BE ENTITLED
AN ACT

Relating to the provision of municipal services in an annexed area.

MAR 09 1995

Filed with the Chief Clerk

MAR 14 1995

Read first time and referred to Committee on Land + Resource Management

4/11/95

Reported ___ favorably ~~(as amended)~~
(as substituted)

APR 19 1995

Sent to Committee on (Calendars)

~~(Local & Consent Calendars)~~

MAY 9 1995

Read second time (comm. subst.) (amended); passed to third reading ~~(failed)~~ by a (non-record vote)
(record vote of ___ yeas, ___ nays, ___ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of ___ yeas, ___ nays, ___ present, not voting

MAY 10 1995

Read third time ~~(amended)~~; finally passed ~~(failed to pass)~~ by a (non-record vote)
(record vote of 137 yeas, 0 nays, 1 present, not voting)

MAY 10 1995

Engrossed

MAY 11 1995

Sent to Senate

Cynthia Gerhardt

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

MAY 11 1995

Received from the House

MAY 12 1995

Read and referred to Committee on INTERGOVERNMENTAL RELATIONS

Reported favorably

MAY 19 1995

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

MAY 25 1995

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)

(___ yeas, ___ nays)

MAY 25 1995

Read second time, amended, and passed to third reading by (unanimous consent)

(a viva voce vote)

(___ yeas, ___ nays)

MAY 25 1995

Senate and Constitutional 3 Day Rules suspended by a vote of 31 yeas, 0 nays

MAY 25 1995

Read third time, _____, and passed by (a viva voce vote)

31 yeas, 0 nays)

5-25-95

Returned to the House

Betty King

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

1995 29 1330 Returned from the Senate (as substituted)
(with amendments)

House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

MAY 26 1995 House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (~~record vote of~~ _____ yeas, _____ nays, _____ present, not voting)

MAY 26 1995 House conferees appointed: Saunders, Chair; Yost,
Mowery, Knusee, Turner, B

MAY 27 1995 Senate granted House request. Senate conferees appointed: Ellis, Chair;
Wentworth, Bosson, Gallegos, Galloway

MAY 28 1995 Conference committee report adopted (rejected) by the House by a (~~non-record vote~~)
(record vote of 145 yeas, 0 nays, 1 present, not voting)

MAY 29 1995 Conference committee report adopted (~~rejected~~) by the Senate by a (~~viva voce vote~~)
(record vote of 30 yeas, 1 nays)